



## EXECUTIVE ORDER NO. 716

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### IMPOSING A TEMPORARY MORATORIUM ON EARLY PAROLE HEARINGS AND REQUIRING THE SUBMISSION AND IMPLEMENTATION OF A CORRECTIVE ACTION PLAN FOR THE BOARD OF PARDONS AND PAROLES

**WHEREAS** the Legislature has delegated to the Board of Pardons and Paroles the power to grant paroles to inmates serving sentences in the jails and prisons of this State, *see* Ala. Code § 15-22-36(a);

**WHEREAS** the parole power is *intended* to benefit the public (by supporting inmates' reintegration into society and by reducing taxpayer expenditures on prisons) but also carries the potential for extreme social costs (in the form of new offenses committed by paroled inmates);

**WHEREAS** the Board's stated mission is "to promote and enhance public safety through cooperation and collaboration with the Legislature, the Courts, the Department of Corrections, other criminal justice agencies, victims, and the community by providing investigation, supervision, and surveillance services in a holistic approach to rehabilitating adult offenders;"

**WHEREAS** the Board has docketed for early parole consideration hundreds of violent offenders, including offenders sentenced to multiple, consecutive life sentences for the most serious offenses, without any apparent reasonable justification under the law, *see* Ala. Code § 15-22-26;

**WHEREAS** the Board's apparently unjustified early-parole-hearing practices threaten public safety (where parole is granted) and impose substantial costs on victims (even where parole is not granted);

**WHEREAS** the costs of the Board's early-parole-hearing practices are exacerbated by the Board's apparent failure to properly evaluate inmates' suitability for parole and to maintain adequate supervision of dangerous offenders who have already been released on parole;

**WHEREAS** the Board's shortcomings have shaken public confidence in the State's parole system;

**WHEREAS** the Alabama Constitution of 1901 establishes the Governor as the State's "chief magistrate," endows her with the State's "supreme executive power," and demands that she "take care that the laws be faithfully executed," Ala. Const. art. V, §§ 113, 120; and

**WHEREAS** the Alabama Supreme Court has recognized the Governor's supreme authority to act when, "whether due to inaction or inadequate action by [a subordinate executive-branch] official, it is necessary for [her] to act lest the law go unenforced," *Riley v. Cornerstone Community Outreach, Inc.*, 57 So. 3d 704, 722 (Ala. 2010);

**NOW, THEREFORE**, I, Kay Ivey, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of the State of Alabama, do hereby direct, as further set forth below, that the Board immediately observe a moratorium on early parole hearings while it develops and implements a corrective action plan designed to restore public confidence in the State's parole system.

1. **Moratorium on early parole consideration.** Effective immediately, the Board shall not consider any inmate for parole before the inmate's "initial parole consideration date" as determined under the Board operating procedures in effect on the date this order is issued. *See* Bd. Operating Procedures 1.4, 1.5, 1.6, 1.7, 1.8, & 1.9. Specifically, the Board shall immediately cancel all such early parole hearings set by its "Review Committee." The Board shall cause such hearings to be removed from its docket and ensure that all appropriate notifications of cancellation are made.
  - a. **Exceptions.** This moratorium does not apply to inmates who (i) are eligible for parole consideration under the Alabama Medical Parole Act, *see* Ala. Code § 15-22-41 *et seq.*, or (ii) for whom early parole consideration is otherwise legally required.
  - b. **Duration.** This moratorium shall expire on the earlier of (i) 75 days from the date of this order or (ii) the date on which the Board certifies to the Governor and Attorney General that it has

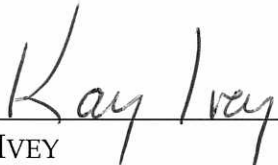
substantially implemented a corrective application plan as required under paragraph 2.d.

2. **Corrective action plan.** The Board shall develop, submit, and implement a corrective action plan within the timeframe set forth below.
  - a. **Contents.** The plan shall identify all steps that the Board can reasonably take within a 30-day implementation period to make improvements in at least the following four areas.
    - i. **Ensuring excellence in executive leadership.** In addition to any other necessary steps, this section of the plan shall address what changes should be made, if any, to the Board's senior executive leadership; its organizational structure; its leadership-development, continuing education, and employee-morale programs; and its processes for ongoing self-evaluation and improvement.
    - ii. **Cultivating a culture of respect towards victims and law enforcement.** In addition to any other necessary steps, this section of the plan shall address what changes should be made, if any, to the Board's victim- and law-enforcement-notification procedures; its handling of telephone and email communications initiated by victims and law enforcement; its general outreach activities with respect to victims and law enforcement; and its training of personnel responsible for notification, contact with, and services to victims and law enforcement.
    - iii. **Ensuring adequate preparation for parole hearings.** In addition to any other necessary steps, this section of the plan shall address what changes should be made, if any, to the Board's operating procedures governing early parole consideration; its compliance with any existing procedures governing early parole consideration; and its processes for gathering adequate information to assess an inmate's suitability for parole.

- iv. **Maintaining supervision of parolees.** In addition to any other necessary steps, this section of the plan shall address what changes should be made, if any, to the Board's processes for supervising parolees and its processes for responding (including its process for notifying other state and local law enforcement agencies) if a parolee absconds or otherwise seriously violates the conditions of his or her parole.
- b. **Submission deadline.** The Board shall submit a signed copy of the plan to the Governor and Attorney General on or before the 30th day following the issuance of this order.
- c. **Review and Implementation.** To whatever extent modified by the Governor, the Board shall begin implementing the plan on the earlier of (i) 15 days following submission of the plan to the Governor and Attorney General or (ii) the date on which the Governor approves or modifies the plan.
- d. **Final certification.** On or before the 30th day after the Board begins implementing the plan, the Board shall certify to the Governor whether it has substantially complied with the plan. This certification shall identify those steps fully implemented and those steps that have not been fully implemented. For any steps that have not been fully implemented, the certification shall explain what actions remain to be taken to achieve full implementation.

DONE AND ORDERED this 15th day of October 2018.



  
KAY IVEY  
Governor

ATTESTED

  
JOHN H. MERRILL  
Secretary of State